AF/ 2126/B

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FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($) 320

Complete if Known

Application Number	09/223,558
Filing Date	December 31, 1998
First Named Inventor	Gregory Lindhorst
Examiner Name	The T. Ho
Art Unit	2126
Attorney Docket No.	003797.77996

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number	19-0733
Deposit Account Name	Banner & Witcoff, Ltd.

The Commissioner is authorized to: *(check all that apply)*

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
				SUBTOTAL (1)	($) 0

2. **EXTRA CLAIM FEES**

				Extra Claims		Fee from below		Fee Paid
Total Claims		-	** =	0	X		=	0
Independent Claims		-	** =	0	X		=	0
Multiple Dependent					X		=	0

Large Entity		Small Entity		
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. **ADDITIONAL FEES**

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *exparte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	320
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive – unavoidable	
1453	1,300	2453	650	Petition to revive – unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify) ____					

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($) 320

SUBMITTED BY Complete *(if applicable)*

Name (Print/Type)	Christopher R. Glembocki	*Registration No. Attorney/Agent)*	38,800	*Telephone*	202-824-3000
Signature	CR Glembocki			*Date*	February 27, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	)
	)
Gregory Lindhorst et al.	) Group Art Unit: 2126
	)
Serial No. 09/223,558	) Examiner: The T. Ho
	)
Filed: December 31, 1998	) Atty. Dkt. No. 003797.77996
	)
For: TRANSPORTING OBJECTS BETWEEN A CLIENT AND A SERVER	)

APPEAL BRIEF

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is an Appeal Brief in accordance with 37 C.F.R. § 1.192, filed in triplicate in support of Appellants' Notice of Appeal, filed February 26, 2003. Appeal is taken from the Final Office Action mailed September 30, 2002 (paper no. 12). Please charge any necessary fees in connection with this Appeal Brief to our Deposit Account No. 19-0733.

I. REAL PARTY IN INTEREST

The real party in interest in this application is Microsoft Corporation, to which this application is assigned.

II. RELATED APPEALS AND INTERFERENCES

The present application is related to U.S. Patent Application 09/223,565 (filed December 31, 1998), in which the Appellants have filed an Appeal Brief on May 24, 2002.

III. STATUS OF CLAIMS

Claims 1-9 are rejected. All of the pending claims are being appealed and are shown in the attached Appendix.

The Final Office Action rejected all of the pending claims as follows:

Claims 1, 2, and 5-7 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,272,673, to Dale et al.

Claims 3 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,272,673, to Dale et al. in view of U.S. Patent No. 5,960,436, to Chang, et al.

Claims 4 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,272,673, to Dale et al. in view of U.S. Patent No. 6,275,935, to Barlow et al. and U.S. Patent No. 5,960,436, to Chang, et al.

IV. STATUS OF AMENDMENTS

No amendments have been entered subsequent to the Final Office Action dated September 30, 2002.

V. SUMMARY OF INVENTION

In making reference herein to various portions of the specification and drawings in order to explain the claimed invention (as required by 37 C.F.R. § 1.192(c)(5)), Appellants do not intend to limit the claims; all references to the specification and drawings are illustrative unless otherwise explicitly stated. Also, references herein to various embodiments disclosed in the specification and drawings are not intended to limit the disclosed structures that correspond to those claim elements, if any, that might be interpreted as means-plus-function recitations.

The specification describes a system and method for authoring text and computer-executable code, and automatically generating script (specification, page 1, lines 16-18). In one embodiment, design difficulties are alleviated by transporting documents across a server/client transition (specification page 16, lines 13-15). For example, objects may be conceptualized as moving between the various spaces (specification, page 17, lines 1-2) including the design space, the composition space and the interaction space (specification, page 17, lines 2-3 and specification, page 19, lines 25-26). In one example, an ASP page, including objects, instantiates an object with property information from memory (specification, page 20, lines 2-6). The object is transmitted from the composition space to the interaction space with persistence information (specification, page 20, lines 6-7 and Fig. 5). The persistence information that accompanies the object describes the properties of the object (specification, page 20, lines 8-10). An event may be received in the composition space from the browser (specification, page 20, lines 13-14). The object may be re-instantiated in the composition space and the event may be performed (specification, page 20, liens 16-18). The object may thus be transformed and transmitted back to the interaction space with persistence information (specification, page 20, lines 17-19) and the persistence information may be stored in the interaction space (specification, page 20, lines 21-22).

In another example, an object is created on a server (specification, page 21, line 18) and sent to a client with persistence information identifying the object (specification, page 21, lines 18-19). An event is received from a client and the event is sent with the persistence information back to the server (specification, page 21, lines 20-22). The server re-instantiates the object, performs the event and sends the object back to the client with new persistence information (specification, page 21, lines 22-23). The server may not remember the object or the properties of the object because the client may provide this information to the server with each event (specification, page 21, lines 24-26). Thus, in this example, the object and all state information is discarded from the server (specification, page 21, lines 26-28).

VI. ISSUES

1. The facts do not support a case that claims 1, 2 and 5-7 are anticipated under 35 U.S.C. 102(e) because the prior art does not disclose each and every aspect of the claimed invention.

2. The facts do not support a *prima facie* case that claims 3, 4, 8, and 9 are obvious under 35 U.S.C. 103(a) because the prior art does not teach or suggest each element of the claims.

VII. GROUPING OF CLAIMS

In accordance with 37 C.F.R. § 1.192(c)(7), Appellants assert that the claims do not stand or fall together. The following groups of separately patentable claims should be recognized:

GROUP I -- Independent claims 1 and 6; and dependent claims 2, 3, 7, and 8.

GROUP II -- Independent claims 4 and 9.

GROUP III -- Independent claim 5.

In accordance with 37 C.F.R. § 1.192(c)(7) - (8), separate arguments for patentability for Groups I-III are provided, *infra*.

VIII. ARGUMENT

A. Group I: Claims 1-3 and 6-8 are Patentable

1. Claims 1, 2, 6 and 7 are Patentable, Under 35 U.S.C. § 102(e), Over Dale et al.

Claim 1 recites a system for transporting objects between a first and second machine, the system comprising a first processor on the first machine for executing code and instantiating an object on the first machine and an output for outputting the object with persistence information to the second machine wherein after the object is output from the first machine, a first processor deletes the instantiation of the object from the first machine.

Dale discloses an application server 24a that causes a component 64 to be instantiated on the application server 24a (Dale, col. 12, lines 21-22 and Fig. 8B). However, Dale does not teach or suggest the application server 24a outputting the "component 64" with persistence information to a second machine. Thus, even assuming *arguendo* that the application server 24a is equivalent to the first machine and the component 64 is equivalent to the object as the Office Action asserts, Dale still fails to disclose outputting the component 64 to a second machine.

Alternatively, Dale discloses an application server 24a that causes a component 63 to be instantiated on a client 20a. However, Dale fails to disclose instantiating an object on the first machine, outputting the object with persistence information to a second machine and, after the object is output from the first machine, deleting the instantiation of the object from the first machine. Thus, even assuming *arguendo* that the application server 24a is equivalent to the first machine and the component 63 is equivalent to the object as the Office Action asserts, Dale still fails to disclose instantiating component 63 on the first machine (i.e., the application server 24a as per the Office Action's assumption), outputting the component 63 with persistence information to a second machine and after the component 63 is output from the application server 24a, deleting the instantiation of the component 63 from the application server 24a.

Further, Dale does not disclose after the object is output from the first machine, the first processor deletes the instantiation of the object from the first machine as recited in claim 1. Because Dale does not disclose outputting the object from the first machine at all, Dale clearly does not disclose, *after* the object is output from the first machine, the first processor deletes the instantiation of the object from the first machine. The Final Office Action contends that Dale discloses that the object is "explicitly destroyed." See Final Office Action dated September 30, 2002, page 3, line 7. However, Dale merely discloses that a component may be explicitly destroyed (col. 13, line 55) to indicate to other components that the explicitly destroyed component is unregistered and no longer available. Dale does not disclose, *after* the object is output from the first machine, the first processor deletes the instantiation of the object from the first machine. Dale does not disclose outputting the object from the first machine at all.

Moreover, Dale does not disclose persistence information. One of ordinary skill in the art at the time the invention was made would have known that persistence information, as illustrated in the specification at pages 20-21, is information for which created objects continue to exist and retain their values between runs of a program or information that identifies an object. See, *e.g.*, specification at page 21, line 19 and page 20, lines 1-22. The Final Office Action asserts that the persistence information as recited in claim 1 is equivalent to "designation information" as disclosed by Dale. See Final Office Action, page 7, lines 13-15. However, the "designation information" as disclosed by Dale is information that indicates on which tier the component is to be executed (col. 9, lines 27-31). The "designation information" does not provide information that identifies the object. Therefore, contrary to the Office Action's assertions, the "designation information" is not equivalent to persistence information.

Claim 6 is similar to claim 1 and is allowable for at least the reasons set forth above for claim 1.

Claims 2 and 7 are dependent from claims 1 and 6, respectively, and are therefore allowable for at least the reasons cited above for claims 1 and 6.

The rejection is therefore improper. The rejection of claims 1, 2, 6 and 7 under 35 U.S.C. § 102(e) should be reversed.

2. Claims 3 and 8 are Patentable, Under 35 U.S.C. § 103(a), Over Dale in view of Chang

Claims 3 and 8 depend from claims 1 and 6, respectively. As set forth above, Dale does not teach or suggest claim 1 or claim 6. Chang does not make up for the deficiencies of Dale.

Chang teaches that a client requests objects from a server, downloads the objects, stores the objects in a storage location, then disconnects from the server and records and executes transactions locally. After the transactions are recorded locally, the client reconnects with the server and the transactions are sent to the server and replayed at the server to modify objects at the server (col. 2, lines 1-6). Notably, Chang merely teaches a client performing transactions locally, and then sending the *transactions* to a server to be replayed at the server. Objects located at the server are modified based on the transactions being replayed at the server. The objects thus modified are stored at the server and are not disclosed as being output to a second machine. Chang does not teach or suggest outputting the object with persistence information to a second machine. Further, Chang does not teach or suggest after the object is output from the first machine, deleting the instantiation of the object from the first machine.

The Final Office Action asserts that Chang discloses passing modified objects back to the server and concludes that based on this alleged disclosure, Chang supposedly renders claims 3 and 8 obvious. However, the Office Action has failed to establish a *prima facie* case of obviousness. Claims 3 and 8 do not recite "passing modified objects back to the server", however, even assuming *arguendo* that Claims 3 and 8 recited "passing modified objects back to the server" as the Office Action implies, Chang, either alone or in combination with Dale, still does not teach or suggest claim 3 or 8. Chang merely sends *transactions* to a server and not "modified objects". Thus, contrary to the Office Action's assertions, Chang does not teach or suggest "passing modified objects back to the server."

The *prima facie* case of obviousness fails. The rejection of claims 3 and 8 under 35 U.S.C. § 103(a) should be reversed.

B. **Group II: Claims 4 and 9 are Patentable, Under 35 U.S.C. § 103(a), Over Dale in view of Barlow and Chang**

Claim 4 recites an input in a first machine for receiving persistence information and an event from the second machine, a processor in the first machine for instantiating an object based in part on the persistence information, and an event handler in the first machine for handling the event in combination with modifying the object.

Dale does not teach or suggest a first machine for receiving persistence information and an event from a second machine. Dale does not teach or suggest persistence information at all. The Final Office Action asserts that arrows illustrated in Fig. 3 of the Dale reference provide a teaching of "an input for receiving". See Final Office Action, page 8, lines 6-8. Even assuming *arguendo* that two-way arrows illustrated in Fig. 3 in fact demonstrate an "input for receiving", Dale still fails to teach or suggest the first machine for receiving *persistence information* and an *event* from a *second machine*. As stated above, the "designation information" that the Office Action attempts to equate with persistence information merely designates where the component is to be executed and is not equivalent to persistence information as one of ordinary skill in the art would understand at the time the invention was made and as exemplified in the specification at pages 20-21.

Chang does not make up for the deficiencies of Dale. Chang also does not teach or suggest persistence information, nor does the Final Office Action assert that Chang does.

Claim 4 further recites modifying the object and outputting the modified object to the second machine. The Final Office Action concedes that Dale lacks this teaching but relies on Chang to make up for the deficits. However, Chang does not provide this teaching for reasons set forth above. Specifically, neither Dale nor Chang, either alone or in combination, teach or suggest modifying the object and outputting the modified object to the second machine. As described above, Dale does not modify the component at all but merely instantiates the component on a machine. Also, as described above, Chang merely discloses recording transactions locally by the client, reconnecting the client with a server, then sending *the transactions* (not the objects) to the server to be replayed at the server. Objects at the server are modified based on the transactions being replayed. The objects thus modified are stored at the server and are not disclosed as being output to a second machine. Thus, Chang does not teach or suggest an event handler *in the first machine* for handling the event in combination with modifying the object and an output for *outputting the modified <u>object</u> to the second machine.*

The Final Office Action concedes that Barlow likewise does not teach or suggest outputting a modified object to a second machine by stating that, "Barlow was not used to teach modifying the object … Barlow was used to teach an event handler that handles the event." Final Office Action, page 8, lines 17-20.

Claim 9 is similar to claim 4 and is allowable for at least the reasons set forth above for claim 4.

The *prima facie* case of obviousness fails. The rejection of claims 4 and 9 under 35 U.S.C. § 103(a) should be reversed.

C. Group III: Claim 5 is Patentable, Under 35 U.S.C. § 102(e), Over Dale et al.

Claim 5 recites a data structure for allowing the interchange of objects between a server and a client comprising persistence information associated with a first object representation.

As described above, Dale discloses "designation information" in an applet tag that describes which tier a component is to be executed. However, Dale does not disclose persistence information. The Final Office Action at page 7, lines 13-15 asserts that the "designation information" disclosed by Dale is equivalent to the persistence information. However, the "designation information" of Dale is not equivalent to persistence information. Persistence information, as known by one of ordinary skill in the art and as illustrated in the specification at pages 20-21, is information for which created objects continue to exist and retain their values between runs of a program or information that identifies an object. See, *e.g.*, specification at page 21, line 19 and page 20, lines 1-22. Because the "designation information" of Dale merely provides information on where a component is to be executed and does not provide information that identifies an object or information for which created objects continue to exist and retain their values between runs of a program, "designation information" is not equivalent to persistence information. Thus, Dale fails to teach or suggest persistence information.

Therefore, it is respectfully submitted that the rejection is improper. The rejection of claim 5 under 35 U.S.C. § 102(e) should be reversed.

IX. CONCLUSION

For all of the foregoing reasons, Appellants respectfully submit that the final rejection of claims 1-9 is improper and should be reversed.

Respectfully submitted,

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APPENDIX

CLAIMS INVOLVED IN THE APPEAL

1. A system for transporting objects between a first and second machine where said first machine is programmed in a first language and said second machine is programmed in a second language, said system comprising:

a memory for storing code;

a first processor on said first machine for executing said code and instantiating an object on said first machine;

an output for outputting said object with persistence information to said second machine;

wherein, after said object is output from said first machine, said first processor deletes the instantiation of said object from said first machine.

2. The system according to claim 1, further comprising:

a second processor on said second machine for receiving said object with persistence information and allowing interaction with said object, said interaction creating events.

3. The system according to claim 2, further comprising;

an output of said second machine for outputting said events and said objects with said persistence information to said first machine, wherein said first machine reinstantiates said objects based on said persistence information and handles said events as effecting said reinstantiated objects.

4. A system for manipulating objects received at a first machine from a second machine, comprising:

an input in said first machine for receiving persistence information and an event from said second machine;

a processor in said first machine for instantiating an object based in part on said persistence information;

an event handler in said first machine for handling said event in combination with modifying said object;

an output for outputting said modified object to said second machine.

5. A data structure for allowing the interchange of objects between a server and a client comprising:

a first object representation;

persistence information associated with said first object representation;

event information relating to interaction with said object.

6. A method for transporting objects between a first and second machine where said first machine is programmed in a first language and said second machine is programmed in a second language, said method comprising the steps of:

storing a code in a memory;

executing said code in a first processor on said first machine;

instantiating an object on said first machine;

outputting said object with persistence information to said second machine;

deleting said object from said first machine after said object is output from said first machine.

7. The method of according to claim 6, further comprising the steps of:

receiving said object with persistence information at a second processor on said second machine and

interacting with said object, said interaction creating events.

8. The method according to claim 7, further comprising the steps of:

outputting said events and said objects with said persistence information to said first machine;

reinstantiating said objects based on said persistence information; and

handling said events as effecting said reinstantiated objects.

9. A method for manipulating objects received at a first machine from a second machine, comprising the steps of:

receiving at a first machine persistence information and an event from said second machine;

instantiating an object based in part on said persistence information in said first machine;

handling said event in combination with modifying said object;

outputting said modified object to said second machine.